



California Fair Political Practices Commission

November 5, 1986

John H. Hodgson II
Nielson, Hodgson, Parrinello & Mueller
1030 Fifteenth Street, . Ste. 250
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-86-288

Dear Mr. Hodgson:

In your letter dated October 7, 1986, you requested advice concerning the lobbying disclosure provisions of the Political Reform Act.^{1/} This letter constitutes informal assistance under subsection (c) of Regulation 18329 (copy enclosed).^{2/}

FACTS

A lobbyist employer arranges for 13 first class airline tickets to an event. Some of the tickets are provided to public officials. The employer receives a group discount and actually pays for only 10 tickets.

QUESTION

Is the reportable amount of benefit provided to each official the full cost of one ticket, or should the employer's actual cost be divided by the total number of persons who received the tickets?

CONCLUSION

The lobbyist employer must report the full cost of a first class airline ticket as the amount of benefit provided to each public official.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

^{2/}Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

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ANALYSIS

Lobbyist employers are required to file quarterly reports disclosing payments made in connection with influencing or attempting to influence legislative or administrative action. (Sections 86116, 86117.) In addition, employers must report all "activity expenses" paid or incurred during the quarter. (Section 86116(h).) "Activity expenses" are defined in Government Code Section 86111 as:

...any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer...which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

When reporting activity expenses, a lobbyist employer must report the amount of benefit provided to each participating public official, as well as the total amount of the activity expense. (Section 86112.) For purposes of determining the amount of benefit which has been provided to an official, Section 82025.5 governs. It states:

"Fair market value" means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. "Full and adequate consideration" as used in this title means fair market value.

In an opinion issued to William Hopkins (3 FPPC Opinions 107, Dec. 8, 1977, copy enclosed), the Commission considered the value of complimentary tickets and stated:

In general, the fair market value of a gift is the value that the gift would command in the open market. Kaiser Co. v. Reid, 30 Cal. 2d 610, 623 (1947). Thus, the recipient's initial determination should be whether the ticket or a similar ticket is sold on the open market to the general public. If so, the fair market value is that sales price.

3 FPPC Opinions 112.

Thus, the amount of benefit provided to the officials under the circumstances presented in your letter is the full cost of a

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first class airline ticket. Therefore, in Part III.C. of the Report of Lobbyist Employer (Form 635), the lobbyist employer must disclose the full ticket price in the space provided for reporting the amount of benefit provided to each official. In the space provided for reporting the total amount of the expense, the employer's actual payments in connection with the event should be disclosed.

It should be noted that there are instances in which a lobbyist employer will determine the amount of benefit which has been provided to an official by dividing the total cost of an event by the number of people attending. This is usually the case when several persons attend a catered or buffet-style event where the fair market value of the benefit received by an official cannot be determined.

Please call me at (916) 322-5662 if you have questions about the advice in this letter.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By Carla Wardlow
Political Reform Consultant

DMG:CW:cah
Enclosures

LAW OFFICES OF
NIELSEN, HODGSON, PARRINELLO & MUELLER P C
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SAN FRANCISCO
650 CALIFORNIA STREET, SUITE 2650
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 989-6800

1030 FIFTEENTH STREET, SUITE 250
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 446-6752

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FILE NUMBER

October 7, 1986

Ms. Carla Wardlow
Technical Assistance and Analysis Section
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95805

Dear Carla:

This letter will confirm a phone conversation on September 23, 1986 you had with Pam Phelps, Political Reports Specialist in this office, regarding the reporting requirements for a lobbyist employer who provides interstate travel to a public official. The specific question was if the lobbyist employer arranges for 13 first class round trip air fares (some of which are public officials) but only has to pay for 10 first class round trip air fares because of the group discount, is the amount reportable for each of the public officials the full first class air fare or is it the total fare divided by the number of people going on the trip? In this particular case this would mean a difference of approximately 23 percent in the amount that would be reported to an individual. You advised our office that the amount to report would be the "fair market value" which would be the first class air fare that an individual would otherwise normally have to pay, or in this situation the higher of the two amounts. You advised us also that the lobbyist employer should show on its report the amount per public official that has been received based on this fair market value, although the total amount shown by the lobbyist employer should be the actual amount paid to the vendors of the air fare.

I believe this letter accurately represents the phone conversation you and Pam Phelps had. If there is any questions or additional information we should know, please advise me. Your assistance in this disclosure matter has been appreciated.

Sincerely,

John H. Hodgson
JOHN H. HODGSON II

JHH:ss